

UNITED STATES DISTRICT COURT

FILED
DISTRICT COURT OF GUAM

JAN 18 2007 mba

for

District of Guam

MARY L.M. MORAN
CLERK OF COURT

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Francis A. Aguon Case Number: CR 97-00074-001

Name of Sentencing Judicial Officer: John S. Unpingco

Date of Original Sentence: October 14, 1997

Original Offense: Possession with Intent to Distribute Methamphetamine Hydrochloride, in violation of Title 18, United States Code, Section 841(a)(1).

Original Sentence: 108 months imprisonment followed by a five year term of supervised release with conditions to include: participate in a drug treatment and testing; perform 400 hours of community service; obtain and maintain employment; and pay a \$100 special assessment fee. **Conditions modified on March 31, 2005** to include an additional 100 hours of community service under the direction of the U.S. Probation Office at a rate of eight hours weekly. **Revoked on July 20, 2005** and ordered to serve 11 months prison followed by 49 months supervised release with conditions that he: comply with mandatory and standard conditions; participate in drug treatment and testing; refrain from the use of alcohol and submit to testing; obtain and maintain gainful employment; cooperate in the collection of DNA as directed by the probation officer; not commit another federal, state or local crime; not unlawfully possess and refrain from use of a controlled substance; and submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the Court. **On September 29, 2006 conditions were modified** to include six days of intermittent confinement.

Type of Supervision: Supervised Release Date Supervision Commenced: June 16, 2006

Assistant U.S. Attorney: Karon V. Johnson Defense Attorney: Richard Arens, AFPD

PETITIONING THE COURT

- ☐ To issue a warrant
☒ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1.	Unlawful use of a controlled substance, in violation of 18 U.S.C. § 3583(d).
2.	Failure to report for substance abuse counseling, in violation of 18 U.S.C. § 3583(d).
3.	Failure to report for urinalysis, in violation of 18 U.S.C. § 3583(d).

U.S. Probation Officer Recommendation:

☒ The term of supervision should be

☒ revoked.

☐ extended _____ years, for a total term of _____ years.

☐ The conditions of supervision should be modified as follows:

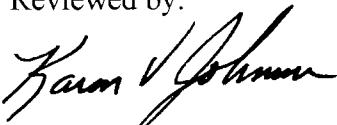
***Please see attached Declaration in Support of Petition; re: Violation of Supervised Release,
Request for a Summons written by U.S. Probation Officer Grace D. Flores.***

Reviewed by:


ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader


Date: 1/10/07

Reviewed by:


KARON V. JOHNSON
Assistant U.S. Attorney

Date: 1/11/07

I declare under penalty of perjury
that the foregoing is true and
correct.


GRACE D. FLORES
U.S. Probation Officer

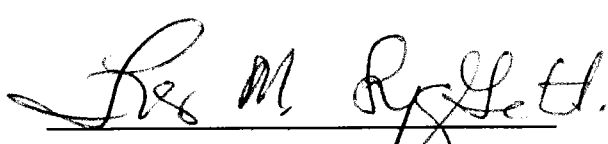
Executed on: January 10, 2007

THE COURT ORDERS:

- ☐ No action.
- ☐ The issuance of a warrant.
- ☒ The issuance of a summons.
- ☐ Other

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DISTRICT COURT OF GUAM
HAGATNA, GUAM


FRANCES M. TYDINGCO-GATEWOOD
Chief Judge
District of Guam

1/18/07
Date

VIOLATION WORKSHEET

1. Defendant Francis A. Aguon

2. Docket Number (Year-Sequence-Defendant No.) CR 97-00074-001

3. District/Office 0993/1

4. Original Sentence Date 10 / 14 / 1997
month day year

(If different than above):

5. Original District/Office _____

6. Original Docket Number (Year-Sequence-Defendant No.) _____

7. List each violation and determine the applicable grade (see §7B1.1(b))

<u>Violation(s)</u>	<u>Grade</u>
● Use of controlled substances.	C
● Failure to participate in substance abuse counseling.	C
● Failure to show for drug testing.	C
● Failure to submit monthly supervision reports.	C
● _____	_____
● _____	_____

8. Most Serious Grade of Violation (see §7B1.1(b)) C

9. Criminal History Category (see §7B1.4(a)) III

10. Range of Imprisonment (see §7B1.4(a)) 5-11 months

11. Sentencing Options for Grade B and C Violations Only (Check the appropriate box):

- ☒ (a) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is at least one month but not more than six months, §7B1.3(c)(1) provides sentencing options to imprisonment.
- ☐ (b) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, §7B1.3(c)(2) provides sentencing options to imprisonment.
- ☐ (c) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than ten months, no sentencing options to imprisonment are available.

Defendant: Francis A. Aguon

12. Unsatisfied Conditions of Original Sentence

List any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation (see §7B1.3(d)):

Restitution (\$)	<u>N/A</u>	Community Confinement	<u>N/A</u>
Fine (\$)	<u>N/A</u>	Home Detention	<u>N/A</u>
Other	<u>N/A</u>	Intermittent Confinement	<u>N/A</u>

13. Supervised Release

If probation is to be revoked, determine the length, if any, of the term of supervised release according to the provisions of §§5D1.1-1.3 (see §7B1.3(g)(1)).

Term: _____ to _____ years.

If supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment (see 18 U.S.C. §3583(e) and §7B1.3(g)(2)).

Period of supervised release to be served following release from imprisonment: 38-48 months

14. Departure

List aggravating and mitigating factors that may warrant a sentence outside the applicable range of imprisonment:

None.

15. Official Detention Adjustment (see _____ 0 months _____ 0 days)

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF GUAM**

UNITED STATES OF AMERICA,)	CRIMINAL CASE NO. 97-00074-001
Plaintiff,)	
)	
)	DECLARATION IN SUPPORT OF PETITION
vs.)	
)	
FRANCIS A. AGUON)	
Defendant.)	
_____)	

Re: Violation of Supervised Release, Request for a Summons

I, U.S. Probation Officer Grace D. Flores, am the U.S. Probation Officer assigned to supervise the Court-ordered conditions of supervised release for Francis A. Aguon, and in that capacity declare as follows:

On October 14, 1997, Francis Aguon was sentenced to 108 months imprisonment and five years supervised release for the offense of Possession with Intent to Distribute Methamphetamine Hydrochloride, in violation of 21 U.S.C. § 841(a)(1). On July 20, 2005, Mr. Aguon's term of supervised release was revoked, and he was sentenced to 11 months imprisonment followed by 49 months of supervised release. His term of supervised release began on June 16, 2006. Mr. Aguon is alleged to have committed the following in violation of 18 U.S.C. §3583(d):

Violation #1 Standard Condition: *The defendant shall refrain from any unlawful use of a controlled substance.*

On October 10, and 16, 2006; and November 13, 2006, Mr. Aguon tested presumptively positive for the use of methamphetamine. He signed admission of drug use forms indicating that he used "ice" on October 5, 6, 7, and 12, 2006; and November 11, 2006.

DECLARATION IN SUPPORT OF PETITION

Violation of Supervised Release, Request for a Summons

Re: AGUON, Francis A.

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On October 17, 2006, Mr. Aguon tested presumptively positive for the use of methamphetamine and marijuana. He signed an admission of drug use form indicating that he used "ice / mj" on October 12, 2006.

On November 27, 2006, Mr. Aguon tested presumptively positive for the use of marijuana. He signed an admission of drug use form indicating that he used "M.J." on "November 24, 2007".

Violation #2 Special condition: *Defendant shall participate in a substance abuse treatment program approved by the U.S. Probation Office for treatment of narcotic addiction or drug or alcohol dependency which will include testing for the detection of substance use or abuse.*

Mr. Aguon failed to show for his scheduled counseling session on October 25, 2006, and November 20, 2006. Additionally, he failed to show for his scheduled urinalysis on October 6, 9, 12, 25, and 27, 2006; and November 3, 13, 16, 22, and 27, 2006. On December 15, 2006 upon recommendation from the treatment provider, Mr. Aguon was terminated from the treatment and testing program.

Violation #3 Standard Condition: *The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month.*

Mr. Aguon failed to submit monthly supervision report for October and November 2006.

Supervision compliance: On July 12, 1999, Mr. Aguon satisfied his \$100 special assessment fee. He cooperated with the collection of DNA on May 4, 2006, and served the six days of intermittent confinement on October 29, 30, and 31, 2006; and November 4, 5, and 6, 2006.

Recommendation: This Probation Officer respectfully requests that the Court issue a Summons for Francis Aguon to appear at a hearing scheduled by the Court, and during that hearing, he be held to answer or show cause why his term of supervised release should not be modified or revoked pursuant to 18 U.S.C. § 3583.

Executed this 10th day of January 2007, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.

DECLARATION IN SUPPORT OF PETITION

Violation of Supervised Release, Request for a Summons

Re: AGUON, Francis A.

USDC Cr. Cs. No. 97-00074-001

January 10, 2006

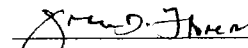
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I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Respectfully submitted,

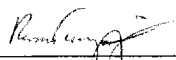
FRANK MICHAEL CRUZ
Chief U.S. Probation Officer

By:



GRACE D. FLORES
U.S. Probation Officer

Reviewed by:



ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader

cc: Karon Johnson, AUSA
Federal Public Defender
File